

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MATTHEW BENNETT,)	
)	
Plaintiff,)	
)	
v.)	No. 1:20-cv-03016-TWP-MPB
)	
DUSHAN ZATECKY,)	
CHRISTINA CONYERS,)	
C. TYLER,)	
BROGAN,)	
BAKER,)	
MEDICAL STAFF,)	
ARNOLD,)	
)	
Defendants.)	

**ORDER DISMISSING AMENDED COMPLAINT AND PROVIDING FINAL
OPPORTUNITY TO AMEND**

The Order of December 15, 2020, dismissed the complaint for failure to state a claim. Dkt. 7. The plaintiff was given a period of time in which to attempt to cure the deficiencies noted in that Order. The plaintiff responded with an amended complaint, but the amended complaint does not cure the deficiencies noted in the Court's prior Order. The amended complaint does not allege that any of the defendants were aware of the risk the plaintiff's assailant posed to him *before* he was attacked.

The amended complaint states that the plaintiff was on protective custody status but was not housed in protective custody even though there were cells available to house him in the protective custody unit. The plaintiff alleges that his placement in a non-protective custody unit let to his assault by another inmate. These allegations may state a viable constitutional claim, but the plaintiff does not identify any defendant who was responsible for his placement outside the protective-custody unit.

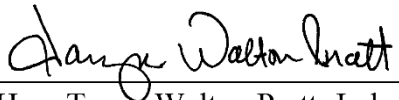
Therefore, the amended complaint is **dismissed**. The plaintiff shall have **through February 12, 2021**, in which to file a second amended complaint. Because an amended complaint completely replaces the currently operative complaint, it must be a complete statement of the plaintiff's claims, including the factual basis of those claims, the individuals responsible for the harm to the plaintiff, and the relief sought by the plaintiff. *See Beal v. Beller*, 847 F.3d 897, 901 (7th Cir. 2017) ("For pleading purposes, once an amended complaint is filed, the original complaint drops out of the picture."). The second amended complaint should have the proper case number, 1:20-cv-03016-TWP-MPB, and the words "Second Amended Complaint" on the first page. If the plaintiff does not respond by the above deadline, this action will be dismissed for failure to state a claim without further notice.

IT IS SO ORDERED

Date: 1/12/2021

Distribution:

MATTHEW BENNETT
988730
PENDLETON - CF
PENDLETON CORRECTIONAL FACILITY
Electronic Service Participant – Court Only


Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana